IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5243 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. S.C. Naidu i/b. M/s.C.R. Naidu & Co., for the petitioners
Mr. M.S. Karnik for Respondent Nos. 1 and 2.
Mr. Namesh Dutt P. Sharma for Respondent No.3.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD, JJ.
DATED : 13TH SEPTEMBER, 2005

P.C.

. Rule. Heard forthwith. Notice was issued to the petitioners that their establishment is dealing with milk and milk products. However, while passing the order the learned Authority proceeded on the footing that the Establishment would not be covered by entry milk and milk products and instead would be covered by trade and commercial. This order was challenged by the petitioners in Appeal which appeal was disposed of as the petitioners failed to deposit the amount in terms of statute. It is this order along with the original order which is the subject matter of the present petition.,

2. We have heard learned Counsel for the parties. We do not propose to to to into the merits of the matter. Suffice it to say that in the instant case no notice was given to the petitioners herein that the respondent propose to cover them under the entry "trade and commercial". Once that be the case the impugned order of the original authority would be without jurisdiction.

3. In view of the above facts, we direct the respondents to withdraw the impugned order dated 22nd March, 2002 with liberty to the respondents to take such steps in law which they are entitled to.

4. The respondents are at liberty to issue a fresh notice within 15 days from today. The petitioners on receipt of the said notice to reply to the same within 15 days thereafter. The enquiry thereafter to be completed within a period of two months on the petitioners herein filing their reply.

. With the above observations petition stands disposed of.

(F.I. REBELLO, J.)

(DR. D.Y.CHANDRACHUD, J)